before 24 Sep. 1689

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OBEDIENCE

Due to the

Present KNIG,

Notwithstanding our

OATHS

To the FORMER.

Written by a Divine of the Church of England.

1. THE Oath of Allegiance is the Expression of our Natural Duty to the King, (as the Coronation Oath is of the *Regal*; which in Nature is antecedent to it) 'tis especially signifyed in these Words, *I will bear Faith and true Allegiance to his Majesty, his Heirs and Successors, and him and them will defend against all Attempts, which shall be made against his or their Persons, their* Crown *and* Dignity.

We must be King before we can be bound to him as such.

2. If the King do manifestly separate his *Person* from, and engage it against his *Crown and Dignity*; so that we cannot Defend them both: I mean, if his Personal Actions, contrary to Law,

k William III

100. k. 78 (1,2)

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2. If the King do manifestly separate his *Person* from, and engage it against his *Crown and Dignity*; so that we cannot Defend them both: I mean, if his Personal Actions, contrary to Law,

do directly and openly tend to the prejudice and spoiling of his *Crown and Dignity*, by his voluntary subjecting them to a Foreign Power, contrary to the plain and primary Intention and Letter of the *Oath*; subverting the Legal Constitution, and enervating the very *Laws* by which his Crown is supported, his Prerogative is measured, and the Dignity of the King, as such, hath its very *Being*, as well as the safety of his People is maintained; certainly, in such a Case, none can be bound by this, or any other Oath, to defend the King's *Person*, in attempts so contrary to the very *Reason* and End of all Government, with the neglect of the other part of our Duty, which is to defend his *Crown and Dignity*.

3. The Oath of *Supremacy* seems to direct us more clearly in this difficulty; the Words are, *I shall bear Faith and true Allegiance to the King's Highness*; but how? It follows, *and to my Power shall Assist and Defend all Jurisdictions, Privileges, Preheminences and Authorities, Granted* or belonging to the King, or annex'd and united to the Imperial Crown of this Realm; that is, *thus* we are to bear Faith and Allegiance to the *King*.

4. For if we should be bound to *Assist and Defend his Person, when* it is, and *as* it is engaged against his Crown and Dignity, we seem bound, *toto posse, & totis viribus* (so far Defence is expounded) to Assist and Contribute to the Ruine both of our King and Country, and perhaps to the cutting of our own Throats.

5. If any should imagine, That the Oath will not suffer us to consider the Person and Crown of the King, thus divided; but that it binds us to assist and defend them together: 'tis true, while they are kept together. But if the *King* himself divide them, and 'tis become impossible for us to Assist his Person but we must betray his Crown; nor Defend his Crown without forbearing to Assist his Person; to say, now we are bound to Assist and Defend both, makes a

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plain Repugnancy in the Oath, and in our Duty (to do and not to do the ſame thing) and conſequently the Obligation ceaſeth.

6 That we are bound by our *Allegiance* to Aſſiſt the *Perſon* of the King, to the prejudice of his Crown and People, ſeems not only to be againſt the light of Nature, the *primary* End of it being the ſafety of his Kingdom, and the ſafety of the King, but the *ſecondary* end of it; but moſt agreeable to the ſenſe of our Ancient and Learned *Lawyers*, and alſo, of the plain acknowledgment and profeſſion of Ancient *Kings* and *Parliaments*. Bract. Fleta *Ei frænum ponere.*

King *Henry* I. five Hundred Years agone, told the Pope, whilſt I live, the *Authorities and Uſages of the Kingdom ſhall never be diminiſhed*: But if I *would* ſo *Debaſe my ſelf* (which *God forbid*) *Magnates mei & totus Angliæ populus nullo modo paterentur*: The Lords and People of *England* would by no means ſuffer it. And *Edward* I. wrote himſelf to the ſame purpoſe. Beſides, with his conſent, the *Lords* and *Commons* in Parliament, in their Letter to the *Pope*, have theſe Words, *We do not permit, or in the leaſt will permit (ſicut nec poſſumus nec debemus)* though our Soveraign Lord the *King* do, or in the leaſt wiſe *attempt* to do any of the premiſes (by owning the Popes Authority, touching his Right to *Scotland*) ſo ſtrange a thing, ſo unlawful, prejudicial, and otherwiſe unheard of, *though the King himſelf would*. Once more, on Record in the Fourth of *Henry* III. the Commons Declare; *Si Dominus Rex & Regni majores hoc vellent* (*Adomer*'s Revocation upon the Popes Order) *Communitas tamen ipſius ingreſſum in Angliam, nullatenus ſuſtineret*.

Now what's the meaning of all this? but that the King's *Perſonal* Will, contrary to Law, however expreſſed (for it muſt be ſignifyed by his Word or Actions) if the performance of it would prejudice his Crown and Dignity, may be reſiſted. Much leſs are we bound by our *Allegiance* to Aſſiſt or

Defend him in ſo doing, in *Reaſon*, *Law*, or the ſenſe of our Ancient *Kings* or *Parliaments*.

Objection. *But we Swear to Defend, not only the King but his Heirs and* Lawful Succeſſors.

Anſwer 1. True, but *Hæres non eſt viventis*, and the Succeſſor, in Law and Common Senſe, is the Perſon that doth actually ſucceed, or is in poſſeſſion. Now if the Actual Succeſſor be the Lawful Succeſſor, we are bound by our Oaths to Defend him; but if he be not the Lawful Succeſſor, none elſe is ſo, becauſe none elſe is the Succeſſor, and conſequently, ſo far the *Object* and *Reaſon* of our Oaths ceaſing, our *Obligation* by them ceaſeth, and we are bound to none beſides the Perſon in Poſſeſſion.

2. 'Tis farther remarkable, That though the word *Lawful* be once in the Oath of *Supremacy*, 'tis only *there*, where we Swear Faith and Allegiance in *General*: But, as if it were intended, that the Subject ſhould not trouble himſelf about the *Title* of the King in *Being*, where that Allegiance, is explain'd with reſpect to practice, the word *Lawful* is left out in that Oath. It follows there in theſe Words, -- *Shall aſſiſt and defend all Juriſdictions*,-- Granted or belonging to the King's Highneſs, his Heirs and Succeſſors, without the Word *Lawful*. And agreeable hereunto, we find the word wholly left out in the Oath of *Allegiance*, both in the ſame place, where we Swear Allegiance in *General*, as well as in the other place of our more particular Duty; and it looks as if this was done *de Induſtria*, for the ſame Reaſon, namely, that ſuch as take the Oaths, might not think themſelves bound thereby to be *Sollicitous* about the *Title* of the Crown.

3. The Holy Scriptures ſeem not to involve the Conſciences of *private* Chriſtians about *Princes Titles*; but expreſly require their Subjection to the *Powers that are*, as a great and neceſſary Inſtance of that Humility and peacable Behaviour which their Religion teacheth them.

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4. In the same Holy Books, we are farther most plainly admonish'd that (by what means soever obtained) *'tis God that puteth down one, and setteth up another*; and upon that ground too, we are strictly charged to *Submit* to the *Powers that are*, because they are *Ordain'd of God*. And tho' the *Apostle* use the word ἐξουσία I think, none can Imagine he intended by it, to determine the Lawfulness of *Augustus*'s Title, who was admitted by the *Senate*; but rather, to inforce that Obedience that he presseth the Christians to yeild, by this Consideration, That *all Authority* is from *God;* and in its true *Nature*, and by God's *Ordinance*, intended for our *Good*. Rom. 13.

Imperatores Rom. fatendum est, non optimo Jure Imperium adepti. Sanderson.

5. The known *Statute* of 11 *H.* 7. 1. is of the same import, and grounded, we find, upon the like *Reason* and H. *Scripture*, it gives us way to this plain inference, that the *same duty* which we owe to a *Lawful* King, is to be performed to the *King in Being*; that is, to the King in *Possession;* and that no other *King* or future *Parliament* can in *Reason*, *Law*, or *good Conscience*, upon any pretence of Usurpation in the *Possessor* of the Crown, or any *Disloyalty* in the Subject, charge us with guilt, for *Serving* or defending the King in Possession. The Subjects therefore, might Lawfully fight for him, and consequently take the Military Oath; in *Reason* (by the Law of *Nature*) in *Law*, by the Law of the Land; in all *good Conscience*, that is, by the Law of God, in the H. Scriptures.

6. Hereupon, my Lord *Coke's* words are notable: This *Act*, saith he (meaning 25. *Ed.* 3. *about Treason*) is to be understood of a *King in possession* of the Crown and Kingdome: for if there be a *King Regnant* in Possession, altho' he be *Rex de facto* and *non de jure*, yet is he *Seignior le Roy*, within the *purview of* this Statute; and the *other*, that hath *Right* and is out of *possession*, is not *within this Act*.

Nay, saith he, if *Treason* be commited against a King *de facto*, and *non de jure*, and after the King *de jure* come to the Crown, he shall *Punish* the Treason done to the King *de facto*;

and a *Pardon* granted by a King *de jure*, that is not also *de facto*, is voide, *Inst.* 3. *l. p.* 7.

Now if by the Law of the Land, which I think is our only guide in such cases, Treason may be committed against a *King* that is so only by *Possession*, without *Right;* and cannot be committed against him that hath *Right*, and not Possession: seing he is not within the purview of the Stature, sure, we cannot reasonably be thought to be intangled in such a strait, as to be bound by our *Allegiance* to commit *Treason*, which we cannot presume the King in *Possession will Pardon*, and the Law tells us, the King that hath Right only, cannot. Who therefore would question our Liberty to be *true and Faithful* to the King in Possession, so far at least, as not to resist him, or to be *Traitors* to him? or to give him assurance thereof by our Oath. The renown'd Casuist Bishop *Sanderson* would not declare the very *Engagement* to be unlawful, taken in that lower Sense, to the pretended *Common-wealth* without any *King* or *House of Lords*.

Case of Engag p. 111.

7. Since we have mentioned that excellent Casuist, whose *Loyalty*, *Judgement*, *Fidelity*, and *Authority*, is unquestionable, 'tis fit for us to observe what he hath frequently and without the least hesitancy delivered as his *premeditated* thoughts about the present case.

Having suppos'd a *King* in *Possession* only, by *Power*, if the Query be what is to be done by the Subject that hath Sworn Allegiance to the *rightful King*: he answers, 'tis not Lawful to obey the King in *such* Possession; but it often happens that not doing so, [*defuisse Officio*] we are wanting to our *duty*. Yea, that we owe Subjection to a King in Possession, upon the grounds of Justice, *Equity*, *Charity*, and *Gratitude*, while we enjoy our Liberties and are Protected by him.

Exigit hoc a nobis (*Optima æqui boni lex*) *vetus illa commutationum formula*, Δός τ. κ. λάβε τ. *& profecto perversissimæ mentis, sub illius dominationis patrocinio, velle vivere cui parere nolis:*

&

& cujus protectione gaudeas, ejus imperium detractare.

8. His third Argument for the Neceſſity of Obedience to the *preſent power*, however obtained, is taken from the *Charity* we owe to the *publick*, whether *Church* or *State*, of which we are Members, and for the good of which we are Born; in *quantum igitur illius Societatis, cujus ipſe Membrum & pars eſt, Salus & tranquillitas exigit, eatenus Civis unuſquiſq; imperiis ejus qui de facto præeſt, obtemperare tenetur.* Words worthy the moſt ſerious reflection of the preſent *Church of* England. Read at large his *5th.* Prælect.

But as to the Argument from *Gratitude*, when we ſeriouſly reflect upon our *late* forlorn and *ruinous* Condition both in Church and ſtate; when we call to mind that all our Foundations were put out of Courſe, and our Pillars even broken by the Late King's own ill guided hands; and that the *Heroick Prince* hath been at ſo great *Expence*, and expoſed himſelf to ſo many *hazards*, in his own *Country*, at *Sea*, and here in *England*, in Compaſſion both to our *Miſeries* and *Infirmities*; when our *Land* was *weak*, and all the *Inhabitants* thereof in an utter *diſaiblity* to reſcue or ſave themſelves; and none under Heaven, within the reach of humane apprehenſion, beſides that one Prince, could poſſibly effect it; that Glorious Inſtrument under God, put his hand to ſupport and ſtrengthen, and *bear up our Pillars*: To Redeem and ſecure our *Religion*, *Laws*, and *Liberties*; and when our late King, either for fear of his Perſon, or rather of the Iſſue of Affairs in our *Re-eſtabliſhment*, had *deſerted or abdicated his Kingdom*, and left us in confuſion to ſhift for our ſelves; whoſe return now cannot be thought of without Horour: And the preſent *King and Queen*, being therefore firſt Petitioned, to take the Government, have Graciouſly accepted it, upon *terms* anſwering all mens deſires or *Intereſts*. I ſay, when all this is well pondered, the Ground and Argument, for our quiet and chearful ſubmiſſion, taken from *Gratitude*, is indeed *too big* to be contained in a *ſheet* or two

of

of Paper, or the *mind of* Man: And Prodigious, beyond the credit of *Posterity*.

Lastly, One would think there was no place left for any farther Scruple. The late *Change* was urged by extreme *Necessity*, and carried on with a wonderful *Providence*, and perfected with *Universal Consent*; it was eminently the *Lord's doing*, and *our own* too; the Government was unhing'd by the *late* King himself The *present* King &c. was put into possession by *our selves* in our *Representatives*; who were as freely chosen by us as ever any *Parliament* was: The *Convention* had nothing wanting but the previous formality of the *Royal writs*, which could not be then had; that *Punctilio* of order, cannot reasonably be supposed to go into the *being* of the *Representative* Body; the want of it, cannot well be thought to prejudice our *Election* or *Consent* to what they have done, whom we chose and *entrusted* with our *Politick* Reason and Interest, and in whose Acts, we ought to acquiesce as our *own doings*, in every thing or matter of *Expediency* for the *Publick* good, not *evidently* contrary to our duty to *God*.

In short, The *Possession* of the Throne, by the Act of the People of *England*, is now *unquestionable*; we have no liberty left us, either to *dispute* the King's *Title*, or deny him our *Duty*. Give unto *Cæsar* the things that are *Cæsars*, &c.

F I N I S.